

Senate Engrossed House Bill

FILED

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SECRETARY OF STATE**

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CHAPTER 333

HOUSE BILL 2429

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1510.01; AMENDING SECTIONS 42-5061, 42-5075 AND 42-11054, ARIZONA REVISED STATUTES; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 12, SECTION 1, CHAPTER 264, SECTION 1, CHAPTER 316, SECTION 2 AND CHAPTER 317, SECTION 10; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 1; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1085; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164; RELATING TO SOLAR ENERGY INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1510.01, to read:

4 41-1510.01. Solar energy tax incentives: qualification

5 A. THE DEPARTMENT SHALL ESTABLISH A PROCEDURE FOR IDENTIFYING
6 COMMERCIAL SOLAR ENERGY PROJECTS THAT QUALIFY FOR THE PURPOSES OF THE
7 COMMERCIAL SOLAR ENERGY INCOME TAX CREDITS UNDER SECTIONS 43-1085 AND
8 43-1164.

9 B. TO QUALIFY FOR THE TAX CREDITS, A BUSINESS MUST APPLY IN A FORM
10 PRESCRIBED BY THE DEPARTMENT, INCLUDING:

11 1. THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE BUSINESS PURCHASING
12 THE SOLAR ENERGY DEVICE OR SYSTEM.

13 2. THE NAME, ADDRESS AND TELEPHONE NUMBER OF A CONTACT PERSON WITH THE
14 BUSINESS.

15 3. THE PROJECTED DATE THAT THE INSTALLATION OF THE SOLAR ENERGY DEVICE
16 OR SYSTEM WILL BEGIN AND THE PROJECTED FINISH DATE.

17 4. THE LOCATION WHERE THE SOLAR ENERGY DEVICE OR SYSTEM WILL BE
18 INSTALLED.

19 5. THE TYPE OF SOLAR ENERGY DEVICE OR SYSTEM, ITS TOTAL COST,
20 EXCLUDING FINANCING COSTS, AND THE ESTIMATED ANNUAL PERFORMANCE LEVEL.

21 6. THE PROJECTED AMOUNT OF THE CREDIT AGAINST STATE INCOME TAXES.

22 C. APPLICATIONS TO THE DEPARTMENT UNDER THIS SECTION ARE CONFIDENTIAL
23 AND ARE NOT SUBJECT TO DISCLOSURE UNDER TITLE 39 FOR EIGHTEEN MONTHS AFTER
24 THE DATE OF APPLICATION.

25 D. THE DEPARTMENT SHALL:

26 1. REVIEW AND EVALUATE EACH SUBMITTED APPLICATION.

27 2. DETERMINE WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION
28 WHETHER THE APPLICATION MEETS THE CRITERIA FOR THE PURPOSES OF THE COMMERCIAL
29 SOLAR ENERGY INCOME TAX CREDITS.

30 3. PROVIDE ITS INITIAL CERTIFICATION OF A PROJECT TO THE APPLICANT AND
31 TO THE DEPARTMENT OF REVENUE. THE INITIAL CERTIFICATION SHALL INCLUDE A
32 UNIQUE IDENTIFYING NUMBER FOR EACH CERTIFIED INSTALLATION.

33 E. ON THE COMPLETION OF EACH CERTIFIED INSTALLATION:

34 1. THE BUSINESS MUST:

35 (a) CERTIFY THAT THE INSTALLED SOLAR ENERGY DEVICE OR SYSTEM IS
36 OPERATIONAL.

37 (b) PROVIDE THE TOTAL AMOUNT OF INCOME TAX CREDITS TO BE CLAIMED.

38 2. THE DEPARTMENT SHALL REVIEW THE INSTALLATION EXPENSES AND ISSUE A
39 CREDIT CERTIFICATE TO THE BUSINESS. THE CREDIT CERTIFICATE SHALL INCLUDE THE
40 ASSIGNED IDENTIFYING NUMBER.

41 3. THE DEPARTMENT OF COMMERCE SHALL TRANSMIT THE CREDIT INFORMATION
42 AND CERTIFICATE NUMBER TO THE DEPARTMENT OF REVENUE.

43 4. THE DEPARTMENT OF COMMERCE SHALL NOT CERTIFY TAX CREDITS UNDER THIS
44 SECTION IN ANY CALENDAR YEAR THAT EXCEED A TOTAL OF ONE MILLION DOLLARS.

1 F. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL
2 COLLABORATE IN ADOPTING RULES THAT ARE NECESSARY TO ACCOMPLISH THE INTENT AND
3 PURPOSE OF THIS SECTION.

4 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
5 42-5061. Retail classification; definitions

6 A. The retail classification is comprised of the business of selling
7 tangible personal property at retail. The tax base for the retail
8 classification is the gross proceeds of sales or gross income derived from
9 the business. The tax imposed on the retail classification does not apply to
10 the gross proceeds of sales or gross income from:

11 1. Professional or personal service occupations or businesses which
12 involve sales or transfers of tangible personal property only as
13 inconsequential elements.

14 2. Services rendered in addition to selling tangible personal property
15 at retail.

16 3. Sales of warranty or service contracts. The storage, use or
17 consumption of tangible personal property provided under the conditions of
18 such contracts is subject to tax under section 42-5156.

19 4. Sales of tangible personal property by any nonprofit organization
20 organized and operated exclusively for charitable purposes and recognized by
21 the United States internal revenue service under section 501(c)(3) of the
22 internal revenue code.

23 5. Sales to persons engaged in business classified under the
24 restaurant classification of articles used by human beings for food, drink or
25 condiment, whether simple, mixed or compounded.

26 6. Business activity which is properly included in any other business
27 classification which is taxable under article 1 of this chapter.

28 7. The sale of stocks and bonds.

29 8. Drugs and medical oxygen, including delivery hose, mask or tent,
30 regulator and tank, on the prescription of a member of the medical, dental or
31 veterinarian profession who is licensed by law to administer such substances.

32 9. Prosthetic appliances as defined in section 23-501 prescribed or
33 recommended by a health professional licensed pursuant to title 32, chapter
34 7, 8, 11, 13, 14, 15, 16, 17 or 29.

35 10. Insulin, insulin syringes and glucose test strips.

36 11. Prescription eyeglasses or contact lenses.

37 12. Hearing aids as defined in section 36-1901.

38 13. Durable medical equipment which has a centers for medicare and
39 medicaid services common procedure code, is designated reimbursable by
40 medicare, is prescribed by a person who is licensed under title 32, chapter
41 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
42 customarily used to serve a medical purpose, is generally not useful to a
43 person in the absence of illness or injury and is appropriate for use in the
44 home.

1 14. Sales to nonresidents of this state for use outside this state if
2 the vendor ships or delivers the tangible personal property out of this
3 state.

4 15. Food, as provided in and subject to the conditions of article 3 of
5 this chapter and section 42-5074.

6 16. Items purchased with United States department of agriculture food
7 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
8 958) or food instruments issued under section 17 of the child nutrition act
9 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
10 section 1786).

11 17. Textbooks by any bookstore that are required by any state
12 university or community college.

13 18. Food and drink to a person who is engaged in business which is
14 classified under the restaurant classification and which provides such food
15 and drink without monetary charge to its employees for their own consumption
16 on the premises during the employees' hours of employment.

17 19. Articles of food, drink or condiment and accessory tangible
18 personal property to a school district if such articles and accessory
19 tangible personal property are to be prepared and served to persons for
20 consumption on the premises of a public school within the district during
21 school hours.

22 20. Lottery tickets or shares pursuant to title 5, chapter 5,
23 article 1.

24 21. The sale of precious metal bullion and monetized bullion to the
25 ultimate consumer, but the sale of coins or other forms of money for
26 manufacture into jewelry or works of art is subject to the tax. For the
27 purposes of this paragraph:

28 (a) "Monetized bullion" means coins and other forms of money which are
29 manufactured from gold, silver or other metals and which have been or are
30 used as a medium of exchange in this or another state, the United States or a
31 foreign nation.

32 (b) "Precious metal bullion" means precious metal, including gold,
33 silver, platinum, rhodium and palladium, which has been smelted or refined so
34 that its value depends on its contents and not on its form.

35 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
36 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
37 valid single trip use fuel tax permit issued under section 28-5739, sales of
38 aviation fuel which are subject to the tax imposed under section 28-8344 and
39 sales of jet fuel which are subject to the tax imposed under article 8 of
40 this chapter.

41 23. Tangible personal property sold to a person engaged in the business
42 of leasing or renting such property under the personal property rental
43 classification if such property is to be leased or rented by such person.

1 24. Tangible personal property sold in interstate or foreign commerce
2 if prohibited from being so taxed by the Constitution of the United States or
3 the constitution of this state.

4 25. Tangible personal property sold to:

5 (a) A qualifying hospital as defined in section 42-5001.

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

9 (c) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind,
12 visually impaired and multihandicapped children from the time of birth to age
13 twenty-one.

14 (d) A qualifying community health center as defined in section
15 42-5001.

16 (e) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the internal revenue code and that regularly serves
18 meals to the needy and indigent on a continuing basis at no cost.

19 (f) For taxable periods beginning from and after June 30, 2001, a
20 nonprofit charitable organization that has qualified under section 501(c)(3)
21 of the internal revenue code and that provides residential apartment housing
22 for low income persons over sixty-two years of age in a facility that
23 qualifies for a federal housing subsidy, if the tangible personal property is
24 used by the organization solely to provide residential apartment housing for
25 low income persons over sixty-two years of age in a facility that qualifies
26 for a federal housing subsidy.

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

29 27. Tangible personal property sold to a person that is subject to tax
30 under this article by reason of being engaged in business classified under
31 the prime contracting classification under section 42-5075, or to a
32 subcontractor working under the control of a prime contractor that is subject
33 to tax under article 1 of this chapter, if the property so sold is any of the
34 following:

35 (a) Incorporated or fabricated by the person into any real property,
36 structure, project, development or improvement as part of the business.

37 (b) Used in environmental response or remediation activities under
38 section 42-5075, subsection B, paragraph 6.

39 (c) Incorporated or fabricated by the person into any lake facility
40 development in a commercial enhancement reuse district under conditions
41 prescribed for the deduction allowed by section 42-5075, subsection B,
42 paragraph 8.

43 28. The sale of a motor vehicle to:

44 (a) A nonresident of this state if the purchaser's state of residence
45 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special ninety
2 day nonresident registration permit for the vehicle as prescribed by sections
3 28-2154 and 28-2154.01.

4 (b) An enrolled member of an Indian tribe who resides on the Indian
5 reservation established for that tribe.

6 29. Tangible personal property purchased in this state by a nonprofit
7 charitable organization that has qualified under section 501(c)(3) of the
8 United States internal revenue code and that engages in and uses such
9 property exclusively in programs for mentally or physically handicapped
10 persons if the programs are exclusively for training, job placement,
11 rehabilitation or testing.

12 30. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
14 of the internal revenue code if the organization is associated with a major
15 league baseball team or a national touring professional golfing association
16 and no part of the organization's net earnings inures to the benefit of any
17 private shareholder or individual.

18 31. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

23 32. Sales of tangible personal property by a nonprofit organization
24 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
25 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
26 sponsors or operates a rodeo featuring primarily farm and ranch animals and
27 no part of the organization's net earnings inures to the benefit of any
28 private shareholder or individual.

29 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
30 propagative material to persons who use those items to commercially produce
31 agricultural, horticultural, viticultural or floricultural crops in this
32 state.

33 34. Machinery, equipment, technology or related supplies that are only
34 useful to assist a person who is physically disabled as defined in section
35 46-191, has a developmental disability as defined in section 36-551 or has a
36 head injury as defined in section 41-3201 to be more independent and
37 functional.

38 35. Sales of tangible personal property that is shipped or delivered
39 directly to a destination outside the United States for use in that foreign
40 country.

41 36. Sales of natural gas or liquefied petroleum gas used to propel a
42 motor vehicle.

43 37. Paper machine clothing, such as forming fabrics and dryer felts,
44 sold to a paper manufacturer and directly used or consumed in paper
45 manufacturing.

1 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
2 sold to a qualified environmental technology manufacturer, producer or
3 processor as defined in section 41-1514.02 and directly used or consumed in
4 the generation or provision of on-site power or energy solely for
5 environmental technology manufacturing, producing or processing or
6 environmental protection. This paragraph shall apply for fifteen full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an environmental
9 technology manufacturer, producer or processor who does not manufacture
10 paper, the time period shall begin with the date the first manufacturing,
11 processing or production equipment is placed in service.

12 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
13 processing, fabricating, mining, refining, metallurgical operations, research
14 and development and, beginning on January 1, 1999, printing, if using or
15 consuming the chemicals, alone or as part of an integrated system of
16 chemicals, involves direct contact with the materials from which the product
17 is produced for the purpose of causing or permitting a chemical or physical
18 change to occur in the materials as part of the production process. This
19 paragraph does not include chemicals that are used or consumed in activities
20 such as packaging, storage or transportation but does not affect any
21 deduction for such chemicals that is otherwise provided by this section. For
22 the purposes of this paragraph, "printing" means a commercial printing
23 operation and includes job printing, engraving, embossing, copying and
24 bookbinding.

25 40. Through December 31, 1994, personal property liquidation
26 transactions, conducted by a personal property liquidator. From and after
27 December 31, 1994, personal property liquidation transactions shall be
28 taxable under this section provided that nothing in this subsection shall be
29 construed to authorize the taxation of casual activities or transactions
30 under this chapter. For the purposes of this paragraph:

31 (a) "Personal property liquidation transaction" means a sale of
32 personal property made by a personal property liquidator acting solely on
33 behalf of the owner of the personal property sold at the dwelling of the
34 owner or upon the death of any owner, on behalf of the surviving spouse, if
35 any, any devisee or heir or the personal representative of the estate of the
36 deceased, if one has been appointed.

37 (b) "Personal property liquidator" means a person who is retained to
38 conduct a sale in a personal property liquidation transaction.

39 41. Sales of food, drink and condiment for consumption within the
40 premises of any prison, jail or other institution under the jurisdiction of
41 the state department of corrections, the department of public safety, the
42 department of juvenile corrections or a county sheriff.

43 42. A motor vehicle and any repair and replacement parts and tangible
44 personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

3 43. Livestock and poultry feed, salts, vitamins and other additives for
4 livestock or poultry consumption that are sold to persons who are engaged in
5 producing livestock, poultry, or livestock or poultry products or who are
6 engaged in feeding livestock or poultry commercially. For the purposes of
7 this paragraph, "poultry" includes ratites.

8 44. Sales of implants used as growth promotants and injectable
9 medicines, not already exempt under paragraph 8 of this subsection, for
10 livestock or poultry owned by or in possession of persons who are engaged in
11 producing livestock, poultry, or livestock or poultry products or who are
12 engaged in feeding livestock or poultry commercially. For the purposes of
13 this paragraph, "poultry" includes ratites.

14 45. Sales of motor vehicles at auction to nonresidents of this state
15 for use outside this state if the vehicles are shipped or delivered out of
16 this state, regardless of where title to the motor vehicles passes or its
17 free on board point.

18 46. Tangible personal property sold to a person engaged in business and
19 subject to tax under the transient lodging classification if the tangible
20 personal property is a personal hygiene item or articles used by human beings
21 for food, drink or condiment, except alcoholic beverages, which are furnished
22 without additional charge to and intended to be consumed by the transient
23 during the transient's occupancy.

24 47. Sales of alternative fuel, as defined in section 1-215, to a used
25 oil fuel burner who has received a permit to burn used oil or used oil fuel
26 under section 49-426 or 49-480.

27 48. Sales of materials that are purchased by or for publicly funded
28 libraries including school district libraries, charter school libraries,
29 community college libraries, state university libraries or federal, state,
30 county or municipal libraries for use by the public as follows:

31 (a) Printed or photographic materials, beginning August 7, 1985.

32 (b) Electronic or digital media materials, beginning July 17, 1994.

33 49. Tangible personal property sold to a commercial airline and
34 consisting of food, beverages and condiments and accessories used for serving
35 the food and beverages, if those items are to be provided without additional
36 charge to passengers for consumption in flight. For the purposes of this
37 paragraph, "commercial airline" means a person holding a federal certificate
38 of public convenience and necessity or foreign air carrier permit for air
39 transportation to transport persons, property or United States mail in
40 intrastate, interstate or foreign commerce.

41 50. Sales of alternative fuel vehicles if the vehicle was manufactured
42 as a diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

1 51. Sales of any spirituous, vinous or malt liquor by a person that is
2 licensed in this state as a wholesaler by the department of liquor licenses
3 and control pursuant to title 4, chapter 2, article 1.

4 52. Sales of tangible personal property to be incorporated or installed
5 as part of environmental response or remediation activities under section
6 42-5075, subsection B, paragraph 6.

7 53. Sales of tangible personal property by a nonprofit organization
8 that is exempt from taxation under section 501(c)(6) of the internal revenue
9 code if the organization produces, organizes or promotes cultural or civic
10 related festivals or events and no part of the organization's net earnings
11 inures to the benefit of any private shareholder or individual.

12 B. In addition to the deductions from the tax base prescribed by
13 subsection A of this section, the gross proceeds of sales or gross income
14 derived from sales of the following categories of tangible personal property
15 shall be deducted from the tax base:

16 1. Machinery, or equipment, used directly in manufacturing,
17 processing, fabricating, job printing, refining or metallurgical operations.
18 The terms "manufacturing", "processing", "fabricating", "job printing",
19 "refining" and "metallurgical" as used in this paragraph refer to and include
20 those operations commonly understood within their ordinary meaning.
21 "Metallurgical operations" includes leaching, milling, precipitating,
22 smelting and refining.

23 2. Mining machinery, or equipment, used directly in the process of
24 extracting ores or minerals from the earth for commercial purposes, including
25 equipment required to prepare the materials for extraction and handling,
26 loading or transporting such extracted material to the surface. "Mining"
27 includes underground, surface and open pit operations for extracting ores and
28 minerals.

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification and consisting of
31 central office switching equipment, switchboards, private branch exchange
32 equipment, microwave radio equipment and carrier equipment including optical
33 fiber, coaxial cable and other transmission media which are components of
34 carrier systems.

35 4. Machinery, equipment or transmission lines used directly in
36 producing or transmitting electrical power, but not including distribution.
37 Transformers and control equipment used at transmission substation sites
38 constitute equipment used in producing or transmitting electrical power.

39 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
40 to be used as breeding or production stock, including sales of breedings or
41 ownership shares in such animals used for breeding or production.

42 6. Pipes or valves four inches in diameter or larger used to transport
43 oil, natural gas, artificial gas, water or coal slurry, including compressor
44 units, regulators, machinery and equipment, fittings, seals and any other
45 part that is used in operating the pipes or valves.

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:

3 (a) A person holding a federal certificate of public convenience and
4 necessity, a supplemental air carrier certificate under federal aviation
5 regulations (14 Code of Federal Regulations part 121) or a foreign air
6 carrier permit for air transportation for use as or in conjunction with or
7 becoming a part of aircraft to be used to transport persons, property or
8 United States mail in intrastate, interstate or foreign commerce.

9 (b) Any foreign government for use by such government outside of this
10 state.

11 (c) Persons who are not residents of this state and who will not use
12 such property in this state other than in removing such property from this
13 state. This subdivision also applies to corporations that are not
14 incorporated in this state, regardless of maintaining a place of business in
15 this state, if the principal corporate office is located outside this state
16 and the property will not be used in this state other than in removing the
17 property from this state.

18 8. Machinery, tools, equipment and related supplies used or consumed
19 directly in repairing, remodeling or maintaining aircraft, aircraft engines
20 or aircraft component parts by or on behalf of a certificated or licensed
21 carrier of persons or property.

22 9. Railroad rolling stock, rails, ties and signal control equipment
23 used directly to transport persons or property.

24 10. Machinery or equipment used directly to drill for oil or gas or
25 used directly in the process of extracting oil or gas from the earth for
26 commercial purposes.

27 11. Buses or other urban mass transit vehicles which are used directly
28 to transport persons or property for hire or pursuant to a governmentally
29 adopted and controlled urban mass transportation program and which are sold
30 to bus companies holding a federal certificate of convenience and necessity
31 or operated by any city, town or other governmental entity or by any person
32 contracting with such governmental entity as part of a governmentally adopted
33 and controlled program to provide urban mass transportation.

34 12. Groundwater measuring devices required under section 45-604.

35 13. New machinery and equipment consisting of tractors, tractor-drawn
36 implements, self-powered implements, machinery and equipment necessary for
37 extracting milk, and machinery and equipment necessary for cooling milk and
38 livestock, and drip irrigation lines not already exempt under paragraph 6 of
39 this subsection and that are used for commercial production of agricultural,
40 horticultural, viticultural and floricultural crops and products in this
41 state. For the purposes of this paragraph:

42 (a) "New machinery and equipment" means machinery and equipment which
43 have never been sold at retail except pursuant to leases or rentals which do
44 not total two years or more.

1 (b) "Self-powered implements" includes machinery and equipment that
2 are electric-powered.

3 14. Machinery or equipment used in research and development. For the
4 purposes of this paragraph, "research and development" means basic and
5 applied research in the sciences and engineering, and designing, developing
6 or testing prototypes, processes or new products, including research and
7 development of computer software that is embedded in or an integral part of
8 the prototype or new product or that is required for machinery or equipment
9 otherwise exempt under this section to function effectively. Research and
10 development do not include manufacturing quality control, routine consumer
11 product testing, market research, sales promotion, sales service, research in
12 social sciences or psychology, computer software research that is not
13 included in the definition of research and development, or other
14 nontechnological activities or technical services.

15 15. Machinery and equipment that are purchased by or on behalf of the
16 owners of a soundstage complex and primarily used for motion picture,
17 multimedia or interactive video production in the complex. This paragraph
18 applies only if the initial construction of the soundstage complex begins
19 after June 30, 1996 and before January 1, 2002 and the machinery and
20 equipment are purchased before the expiration of five years after the start
21 of initial construction. For the purposes of this paragraph:

22 (a) "Motion picture, multimedia or interactive video production"
23 includes products for theatrical and television release, educational
24 presentations, electronic retailing, documentaries, music videos, industrial
25 films, CD-ROM, video game production, commercial advertising and television
26 episode production and other genres that are introduced through developing
27 technology.

28 (b) "Soundstage complex" means a facility of multiple stages including
29 production offices, construction shops and related areas, prop and costume
30 shops, storage areas, parking for production vehicles and areas that are
31 leased to businesses that complement the production needs and orientation of
32 the overall facility.

33 16. Tangible personal property that is used by either of the following
34 to receive, store, convert, produce, generate, decode, encode, control or
35 transmit telecommunications information:

36 (a) Any direct broadcast satellite television or data transmission
37 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
38 100.

39 (b) Any satellite television or data transmission facility, if both of
40 the following conditions are met:

41 (i) Over two-thirds of the transmissions, measured in megabytes,
42 transmitted by the facility during the test period were transmitted to or on
43 behalf of one or more direct broadcast satellite television or data
44 transmission services that operate pursuant to 47 Code of Federal Regulations
45 parts 25 and 100.

1 (ii) Over two-thirds of the transmissions, measured in megabytes,
2 transmitted by or on behalf of those direct broadcast television or data
3 transmission services during the test period were transmitted by the facility
4 to or on behalf of those services.

5 For the purposes of subdivision (b) of this paragraph, "test period" means
6 the three hundred sixty-five day period beginning on the later of the date on
7 which the tangible personal property is purchased or the date on which the
8 direct broadcast satellite television or data transmission service first
9 transmits information to its customers.

10 17. Clean rooms that are used for manufacturing, processing,
11 fabrication or research and development, as defined in paragraph 14 of this
12 subsection, of semiconductor products. For the purposes of this paragraph,
13 "clean room" means all property that comprises or creates an environment
14 where humidity, temperature, particulate matter and contamination are
15 precisely controlled within specified parameters, without regard to whether
16 the property is actually contained within that environment or whether any of
17 the property is affixed to or incorporated into real property. Clean room:

18 (a) Includes the integrated systems, fixtures, piping, movable
19 partitions, lighting and all property that is necessary or adapted to reduce
20 contamination or to control airflow, temperature, humidity, chemical purity
21 or other environmental conditions or manufacturing tolerances, as well as the
22 production machinery and equipment operating in conjunction with the clean
23 room environment.

24 (b) Does not include the building or other permanent, nonremovable
25 component of the building that houses the clean room environment.

26 18. Machinery and equipment used directly in the feeding of poultry,
27 the environmental control of housing for poultry, the movement of eggs within
28 a production and packaging facility or the sorting or cooling of eggs. This
29 exemption does not apply to vehicles used for transporting eggs.

30 19. Machinery or equipment, including related structural components,
31 that is employed in connection with manufacturing, processing, fabricating,
32 job printing, refining, mining, natural gas pipelines, metallurgical
33 operations, telecommunications, producing or transmitting electricity or
34 research and development and that is used directly to meet or exceed rules or
35 regulations adopted by the federal energy regulatory commission, the United
36 States environmental protection agency, the United States nuclear regulatory
37 commission, the Arizona department of environmental quality or a political
38 subdivision of this state to prevent, monitor, control or reduce land, water
39 or air pollution.

40 20. Machinery and equipment that are sold to a person engaged in the
41 commercial production of livestock, livestock products or agricultural,
42 horticultural, viticultural or floricultural crops or products in this state
43 and that are used directly and primarily to prevent, monitor, control or
44 reduce air, water or land pollution.

1 21. Machinery or equipment that enables a television station to
2 originate and broadcast or to receive and broadcast digital television
3 signals and that was purchased to facilitate compliance with the
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
5 Code section 336) and the federal communications commission order issued
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
7 not exempt any of the following:

8 (a) Repair or replacement parts purchased for the machinery or
9 equipment described in this paragraph.

10 (b) Machinery or equipment purchased to replace machinery or equipment
11 for which an exemption was previously claimed and taken under this paragraph.

12 (c) Any machinery or equipment purchased after the television station
13 has ceased analog broadcasting, or purchased after November 1, 2009,
14 whichever occurs first.

15 22. Qualifying equipment that is purchased from and after June 30, 2004
16 through June 30, 2014 by a qualified business under section 41-1516 for
17 harvesting or the initial processing of qualifying forest products removed
18 from qualifying projects as defined in section 41-1516. To qualify for this
19 deduction, the qualified business at the time of purchase must present its
20 certification approved by the department.

21 23. Machinery, equipment and other tangible personal property used
22 directly in motion picture production by a motion picture production
23 company. To qualify for this deduction, at the time of purchase, the motion
24 picture production company must present to the retailer its certificate that
25 is issued pursuant to section 42-5009, subsection H and that establishes its
26 qualification for the deduction.

27 C. The deductions provided by subsection B of this section do not
28 include sales of:

29 1. Expendable materials. For the purposes of this paragraph,
30 expendable materials do not include any of the categories of tangible
31 personal property specified in subsection B of this section regardless of the
32 cost or useful life of that property.

33 2. Janitorial equipment and hand tools.

34 3. Office equipment, furniture and supplies.

35 4. Tangible personal property used in selling or distributing
36 activities, other than the telecommunications transmissions described in
37 subsection B, paragraph 16 of this section.

38 5. Motor vehicles required to be licensed by this state, except buses
39 or other urban mass transit vehicles specifically exempted pursuant to
40 subsection B, paragraph 11 of this section, without regard to the use of such
41 motor vehicles.

42 6. Shops, buildings, docks, depots and all other materials of whatever
43 kind or character not specifically included as exempt.

44 7. Motors and pumps used in drip irrigation systems.

1 D. In addition to the deductions from the tax base prescribed by
2 subsection A of this section, there shall be deducted from the tax base the
3 gross proceeds of sales or gross income derived from sales of machinery,
4 equipment, materials and other tangible personal property used directly and
5 predominantly to construct a qualified environmental technology
6 manufacturing, producing or processing facility as described in section
7 41-1514.02. This subsection applies for ten full consecutive calendar or
8 fiscal years after the start of initial construction.

9 E. In computing the tax base, gross proceeds of sales or gross income
10 from retail sales of heavy trucks and trailers does not include any amount
11 attributable to federal excise taxes imposed by 26 United States Code section
12 4051.

13 F. In computing the tax base, gross proceeds of sales or gross income
14 from the sale of use fuel, as defined in section 28-5601, does not include
15 any amount attributable to federal excise taxes imposed by 26 United States
16 Code section 4091.

17 G. If a person is engaged in an occupation or business to which
18 subsection A of this section applies, the person's books shall be kept so as
19 to show separately the gross proceeds of sales of tangible personal property
20 and the gross income from sales of services, and if not so kept the tax shall
21 be imposed on the total of the person's gross proceeds of sales of tangible
22 personal property and gross income from services.

23 H. If a person is engaged in the business of selling tangible personal
24 property at both wholesale and retail, the tax under this section applies
25 only to the gross proceeds of the sales made other than at wholesale if the
26 person's books are kept so as to show separately the gross proceeds of sales
27 of each class, and if the books are not so kept, the tax under this section
28 applies to the gross proceeds of every sale so made.

29 I. A person who engages in manufacturing, baling, crating, boxing,
30 barreling, canning, bottling, sacking, preserving, processing or otherwise
31 preparing for sale or commercial use any livestock, agricultural or
32 horticultural product or any other product, article, substance or commodity
33 and who sells the product of such business at retail in this state is deemed,
34 as to such sales, to be engaged in business classified under the retail
35 classification. This subsection does not apply to businesses classified
36 under the:

- 37 1. Transporting classification.
- 38 2. Utilities classification.
- 39 3. Telecommunications classification.
- 40 4. Pipeline classification.
- 41 5. Private car line classification.
- 42 6. Publication classification.
- 43 7. Job printing classification.
- 44 8. Prime contracting classification.
- 45 9. Owner builder sales classification.

1 10. Restaurant classification.

2 J. The gross proceeds of sales or gross income derived from the
3 following shall be deducted from the tax base for the retail classification:

4 1. Sales made directly to the United States government or its
5 departments or agencies by a manufacturer, modifier, assembler or repairer.

6 2. Sales made directly to a manufacturer, modifier, assembler or
7 repairer if such sales are of any ingredient or component part of products
8 sold directly to the United States government or its departments or agencies
9 by the manufacturer, modifier, assembler or repairer.

10 3. Overhead materials or other tangible personal property that is used
11 in performing a contract between the United States government and a
12 manufacturer, modifier, assembler or repairer, including property used in
13 performing a subcontract with a government contractor who is a manufacturer,
14 modifier, assembler or repairer, to which title passes to the government
15 under the terms of the contract or subcontract.

16 4. Sales of overhead materials or other tangible personal property to
17 a manufacturer, modifier, assembler or repairer if the gross proceeds of
18 sales or gross income derived from the property by the manufacturer,
19 modifier, assembler or repairer will be exempt under paragraph 3 of this
20 subsection.

21 K. There shall be deducted from the tax base fifty per cent of the
22 gross proceeds or gross income from any sale of tangible personal property
23 made directly to the United States government or its departments or agencies,
24 which is not deducted under subsection J of this section.

25 L. The department shall require every person claiming a deduction
26 provided by subsection J or K of this section to file on forms prescribed by
27 the department at such times as the department directs a sworn statement
28 disclosing the name of the purchaser and the exact amount of sales on which
29 the exclusion or deduction is claimed.

30 M. In computing the tax base, gross proceeds of sales or gross income
31 does not include:

32 1. A manufacturer's cash rebate on the sales price of a motor vehicle
33 if the buyer assigns the buyer's right in the rebate to the retailer.

34 2. The waste tire disposal fee imposed pursuant to section 44-1302.

35 N. There shall be deducted from the tax base the amount received from
36 sales of solar energy devices. ~~but the deduction shall not exceed five~~
37 ~~thousand dollars for each solar energy device. Before deducting any amount~~
38 ~~under this subsection, The retailer shall register with the department as a~~
39 solar energy retailer. By registering, the retailer acknowledges that it
40 will make its books and records relating to sales of solar energy devices
41 available to the department for examination.

42 O. In computing the tax base in the case of the sale or transfer of
43 wireless telecommunications equipment as an inducement to a customer to enter
44 into or continue a contract for telecommunications services that are taxable
45 under section 42-5064, gross proceeds of sales or gross income does not

1 include any sales commissions or other compensation received by the retailer
2 as a result of the customer entering into or continuing a contract for the
3 telecommunications services.

4 P. For the purposes of this section, a sale of wireless
5 telecommunications equipment to a person who holds the equipment for sale or
6 transfer to a customer as an inducement to enter into or continue a contract
7 for telecommunications services that are taxable under section 42-5064 is
8 considered to be a sale for resale in the regular course of business.

9 Q. Retail sales of prepaid calling cards or prepaid authorization
10 numbers for telecommunications services, including sales of reauthorization
11 of a prepaid card or authorization number, are subject to tax under this
12 section.

13 R. For the purposes of this section, the diversion of gas from a
14 pipeline by a person engaged in the business of operating a natural or
15 artificial gas pipeline, for the sole purpose of fueling compressor equipment
16 to pressurize the pipeline, is not a sale of the gas to the operator of the
17 pipeline.

18 S. If a seller is entitled to a deduction pursuant to subsection B,
19 paragraph 16, subdivision (b) of this section, the department may require the
20 purchaser to establish that the requirements of subsection B, paragraph 16,
21 subdivision (b) of this section have been satisfied. If the purchaser cannot
22 establish that the requirements of subsection B, paragraph 16, subdivision
23 (b) of this section have been satisfied, the purchaser is liable in an amount
24 equal to any tax, penalty and interest which the seller would have been
25 required to pay under article 1 of this chapter if the seller had not made a
26 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
27 section. Payment of the amount under this subsection exempts the purchaser
28 from liability for any tax imposed under article 4 of this chapter and
29 related to the tangible personal property purchased. The amount shall be
30 treated as transaction privilege tax to the purchaser and as tax revenues
31 collected from the seller to designate the distribution base pursuant to
32 section 42-5029.

33 T. For the purposes of section 42-5032.01, the department shall
34 separately account for revenues collected under the retail classification
35 from businesses selling tangible personal property at retail:

36 1. On the premises of a multipurpose facility that is owned, leased or
37 operated by the tourism and sports authority pursuant to title 5, chapter 8.

38 2. At professional football contests that are held in a stadium
39 located on the campus of an institution under the jurisdiction of the Arizona
40 board of regents.

41 U. In computing the tax base for the sale of a motor vehicle to a
42 nonresident of this state, if the purchaser's state of residence allows a
43 corresponding use tax exemption to the tax imposed by article 1 of this
44 chapter and the rate of the tax in the purchaser's state of residence is
45 lower than the rate prescribed in article 1 of this chapter, and the

1 nonresident has secured a special ninety day nonresident registration permit
2 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
3 be deducted from the tax base a portion of the gross proceeds or gross income
4 from the sale so that the amount of transaction privilege tax that is paid in
5 this state is equal to the excise tax that is imposed by the purchaser's
6 state of residence on the nonexempt sale or use of the motor vehicle.

7 V. For the purposes of this section:

8 1. "Aircraft" includes:

9 (a) An airplane flight simulator that is approved by the federal
10 aviation administration for use as a phase II or higher flight simulator
11 under appendix H, 14 Code of Federal Regulations part 121.

12 (b) Tangible personal property that is permanently affixed or attached
13 as a component part of an aircraft that is owned or operated by a
14 certificated or licensed carrier of persons or property.

15 2. "Other accessories and related equipment" includes aircraft
16 accessories and equipment such as ground service equipment that physically
17 contact aircraft at some point during the overall carrier operation.

18 3. "Selling at retail" means a sale for any purpose other than for
19 resale in the regular course of business in the form of tangible personal
20 property, but transfer of possession, lease and rental as used in the
21 definition of sale mean only such transactions as are found on investigation
22 to be in lieu of sales as defined without the words lease or rental.

23 W. For the purposes of subsection J of this section:

24 1. "Assembler" means a person who unites or combines products, wares
25 or articles of manufacture so as to produce a change in form or substance
26 without changing or altering the component parts.

27 2. "Manufacturer" means a person who is principally engaged in the
28 fabrication, production or manufacture of products, wares or articles for use
29 from raw or prepared materials, imparting to those materials new forms,
30 qualities, properties and combinations.

31 3. "Modifier" means a person who reworks, changes or adds to products,
32 wares or articles of manufacture.

33 4. "Overhead materials" means tangible personal property, the gross
34 proceeds of sales or gross income derived from which would otherwise be
35 included in the retail classification, and which are used or consumed in the
36 performance of a contract, the cost of which is charged to an overhead
37 expense account and allocated to various contracts based upon generally
38 accepted accounting principles and consistent with government contract
39 accounting standards.

40 5. "Repairer" means a person who restores or renews products, wares or
41 articles of manufacture.

42 6. "Subcontract" means an agreement between a contractor and any
43 person who is not an employee of the contractor for furnishing of supplies or
44 services that, in whole or in part, are necessary to the performance of one
45 or more government contracts, or under which any portion of the contractor's

1 obligation under one or more government contracts is performed, undertaken or
2 assumed and that includes provisions causing title to overhead materials or
3 other tangible personal property used in the performance of the subcontract
4 to pass to the government or that includes provisions incorporating such
5 title passing clauses in a government contract into the subcontract.

6 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to read:

7 42-5075. Prime contracting classification; exemptions;
8 definitions

9 A. The prime contracting classification is comprised of the business
10 of prime contracting and dealership of manufactured buildings. The sale of a
11 used manufactured building is not taxable under this chapter.

12 B. The tax base for the prime contracting classification is sixty-five
13 per cent of the gross proceeds of sales or gross income derived from the
14 business. The following amounts shall be deducted from the gross proceeds of
15 sales or gross income before computing the tax base:

16 1. The sales price of land, which shall not exceed the fair market
17 value.

18 2. Sales and installation of groundwater measuring devices required
19 under section 45-604 and groundwater monitoring wells required by law,
20 including monitoring wells installed for acquiring information for a permit
21 required by law.

22 3. The sales price of furniture, furnishings, fixtures, appliances,
23 and attachments that are not incorporated as component parts of or attached
24 to a manufactured building or the setup site. The sale of such items may be
25 subject to the taxes imposed by article 1 of this chapter separately and
26 distinctly from the sale of the manufactured building.

27 4. The gross proceeds of sales or gross income received from a
28 contract entered into for the construction, alteration, repair, addition,
29 subtraction, improvement, movement, wrecking or demolition of any building,
30 highway, road, railroad, excavation, manufactured building or other
31 structure, project, development or improvement located in a military reuse
32 zone for providing aviation or aerospace services or for a manufacturer,
33 assembler or fabricator of aviation or aerospace products within an active
34 military reuse zone after the zone is initially established or renewed under
35 section 41-1531. To be eligible to qualify for this deduction, before
36 beginning work under the contract, the prime contractor must have applied for
37 a letter of qualification from the department of revenue.

38 5. The gross proceeds of sales or gross income derived from a contract
39 to construct a qualified environmental technology manufacturing, producing or
40 processing facility, as described in section 41-1514.02, and from subsequent
41 construction and installation contracts that begin within ten years after the
42 start of initial construction. To qualify for this deduction, before
43 beginning work under the contract the prime contractor must obtain a letter
44 of qualification from the department of revenue. This paragraph shall apply

1 for ten full consecutive calendar or fiscal years after the start of initial
2 construction.

3 6. The gross proceeds of sales or gross income from a contract to
4 provide for one or more of the following actions, or a contract for site
5 preparation, constructing, furnishing or installing machinery, equipment or
6 other tangible personal property, including structures necessary to protect
7 exempt incorporated materials or installed machinery or equipment, and
8 tangible personal property incorporated into the project, to perform one or
9 more of the following actions in response to a release or suspected release
10 of a hazardous substance, pollutant or contaminant from a facility to the
11 environment, unless the release was authorized by a permit issued by a
12 governmental authority:

13 (a) Actions to monitor, assess and evaluate such a release or a
14 suspected release.

15 (b) Excavation, removal and transportation of contaminated soil and
16 its treatment or disposal.

17 (c) Treatment of contaminated soil by vapor extraction, chemical or
18 physical stabilization, soil washing or biological treatment to reduce the
19 concentration, toxicity or mobility of a contaminant.

20 (d) Pumping and treatment or in situ treatment of contaminated
21 groundwater or surface water to reduce the concentration or toxicity of a
22 contaminant.

23 (e) The installation of structures, such as cutoff walls or caps, to
24 contain contaminants present in groundwater or soil and prevent them from
25 reaching a location where they could threaten human health or welfare or the
26 environment.

27 This paragraph does not include asbestos removal or the construction or use
28 of ancillary structures such as maintenance sheds, offices or storage
29 facilities for unattached equipment, pollution control equipment, facilities
30 or other control items required or to be used by a person to prevent or
31 control contamination before it reaches the environment.

32 7. The gross proceeds of sales or gross income that is derived from a
33 contract entered into for the installation, assembly, repair or maintenance
34 of machinery, equipment or other tangible personal property that is deducted
35 from the tax base of the retail classification pursuant to section 42-5061,
36 subsection B, or that is exempt from use tax pursuant to section 42-5159,
37 subsection B, and that does not become a permanent attachment to a building,
38 highway, road, railroad, excavation or manufactured building or other
39 structure, project, development or improvement. If the ownership of the
40 realty is separate from the ownership of the machinery, equipment or tangible
41 personal property, the determination as to permanent attachment shall be made
42 as if the ownership were the same. The deduction provided in this paragraph
43 does not include gross proceeds of sales or gross income from that portion of
44 any contracting activity which consists of the development of, or
45 modification to, real property in order to facilitate the installation,

1 assembly, repair, maintenance or removal of machinery, equipment or other
2 tangible personal property that is deducted from the tax base of the retail
3 classification pursuant to section 42-5061, subsection B or that is exempt
4 from use tax pursuant to section 42-5159, subsection B. For the purposes of
5 this paragraph, "permanent attachment" means at least one of the following:

6 (a) To be incorporated into real property.

7 (b) To become so affixed to real property that it becomes a part of
8 the real property.

9 (c) To be so attached to real property that removal would cause
10 substantial damage to the real property from which it is removed.

11 8. The gross proceeds of sales or gross income received from a
12 contract for constructing any lake facility development in a commercial
13 enhancement reuse district that is designated pursuant to section 9-499.08 if
14 the prime contractor maintains the following records in a form satisfactory
15 to the department and to the city or town in which the property is located:

16 (a) The certificate of qualification of the lake facility development
17 issued by the city or town pursuant to section 9-499.08, subsection D.

18 (b) All state and local transaction privilege tax returns for the
19 period of time during which the prime contractor received gross proceeds of
20 sales or gross income from a contract to construct a lake facility
21 development in a designated commercial enhancement reuse district, showing
22 the amount exempted from state and local taxation.

23 (c) Any other information that the department considers to be
24 necessary.

25 9. The gross proceeds of sales or gross income attributable to the
26 purchase of machinery, equipment or other tangible personal property that is
27 exempt from or deductible from transaction privilege and use tax under:

28 (a) Section 42-5061, subsection A, paragraph 25 or 29.

29 (b) Section 42-5061, subsection B.

30 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
31 (c), (d), (e), (f), (i), (j) or (l).

32 (d) Section 42-5159, subsection B.

33 10. The gross proceeds of sales or gross income received from a
34 contract for the construction of an environmentally controlled facility for
35 the raising of poultry for the production of eggs and the sorting, cooling
36 and packaging of eggs.

37 11. The gross proceeds of sales or gross income that is derived from a
38 contract entered into with a person who is engaged in the commercial
39 production of livestock, livestock products or agricultural, horticultural,
40 viticultural or floricultural crops or products in this state for the
41 construction, alteration, repair, improvement, movement, wrecking or
42 demolition or addition to or subtraction from any building, highway, road,
43 excavation, manufactured building or other structure, project, development or
44 improvement used directly and primarily to prevent, monitor, control or
45 reduce air, water or land pollution.

1 12. The gross proceeds of sales or gross income that is derived from
2 the installation, assembly, repair or maintenance of clean rooms that are
3 deducted from the tax base of the retail classification pursuant to section
4 42-5061, subsection B, paragraph 17.

5 13. For taxable periods beginning from and after June 30, 2001, the
6 gross proceeds of sales or gross income derived from a contract entered into
7 for the construction of a residential apartment housing facility that
8 qualifies for a federal housing subsidy for low income persons over sixty-two
9 years of age and that is owned by a nonprofit charitable organization that
10 has qualified under section 501(c)(3) of the internal revenue code.

11 14. For taxable periods beginning from and after December 31, 1996 and
12 ending before January 1, 2011, the gross proceeds of sales or gross income
13 derived from a contract to provide and install a solar energy device. The
14 ~~deduction shall not exceed five thousand dollars for each contract. Before~~
15 ~~deducting any amount under this paragraph,~~ The contractor shall register with
16 the department as a solar energy contractor. By registering, the contractor
17 acknowledges that it will make its books and records relating to sales of
18 solar energy devices available to the department for examination.

19 15. The gross proceeds of sales or gross income derived from a contract
20 entered into for the construction of a launch site, as defined in 14 Code of
21 Federal Regulations section 401.5.

22 16. The gross proceeds of sales or gross income derived from a contract
23 entered into for the construction of a domestic violence shelter that is
24 owned and operated by a nonprofit charitable organization that has qualified
25 under section 501(c)(3) of the internal revenue code.

26 17. The gross proceeds of sales or gross income derived from contracts
27 to perform postconstruction treatment of real property for termite and
28 general pest control, including wood destroying organisms.

29 18. The gross proceeds of sales or gross income received from contracts
30 entered into before July 1, 2006 for constructing a state university research
31 infrastructure project if the project has been reviewed by the joint
32 committee on capital review before the university enters into the
33 construction contract for the project. For the purposes of this paragraph,
34 "research infrastructure" has the same meaning prescribed in section 15-1670.

35 19. The gross proceeds of sales or gross income received from a
36 contract for the construction of any building, or other structure, project,
37 development or improvement owned by a qualified business under section
38 41-1516 for harvesting or the initial processing of qualifying forest
39 products removed from qualifying projects as defined in section 41-1516 if
40 actual construction begins before January 1, 2010. To qualify for this
41 deduction, the prime contractor must obtain a letter of qualification from
42 the department of commerce before beginning work under the contract.

43 20. The gross proceeds of sales or gross income received from a
44 contract for the construction of any building or other structure associated
45 with motion picture production in this state. To qualify for the deduction,

1 at the time the contract is entered into the motion picture production
2 company must present to the prime contractor its certificate that is issued
3 pursuant to section 42-5009, subsection H and that establishes its
4 qualification for the deduction.

5 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
6 of this section is subject to the following provisions:

7 1. A prime contractor may establish entitlement to the deduction by
8 both:

9 (a) Marking the invoice for the transaction to indicate that the gross
10 proceeds of sales or gross income derived from the transaction was deducted
11 from the base.

12 (b) Obtaining a certificate executed by the purchaser indicating the
13 name and address of the purchaser, the precise nature of the business of the
14 purchaser, the purpose for which the purchase was made, the necessary facts
15 to establish the deductibility of the property under section 42-5061,
16 subsection B, and a certification that the person executing the certificate
17 is authorized to do so on behalf of the purchaser. The certificate may be
18 disregarded if the prime contractor has reason to believe that the
19 information contained in the certificate is not accurate or complete.

20 2. A person who does not comply with paragraph 1 of this subsection
21 may establish entitlement to the deduction by presenting facts necessary to
22 support the entitlement, but the burden of proof is on that person.

23 3. The department may prescribe a form for the certificate described
24 in paragraph 1, subdivision (b) of this subsection. The department may also
25 adopt rules that describe the transactions with respect to which a person is
26 not entitled to rely solely on the information contained in the certificate
27 provided in paragraph 1, subdivision (b) of this subsection but must instead
28 obtain such additional information as required in order to be entitled to the
29 deduction.

30 4. If a prime contractor is entitled to a deduction by complying with
31 paragraph 1 of this subsection, the department may require the purchaser who
32 caused the execution of the certificate to establish the accuracy and
33 completeness of the information required to be contained in the certificate
34 which would entitle the prime contractor to the deduction. If the purchaser
35 cannot establish the accuracy and completeness of the information, the
36 purchaser is liable in an amount equal to any tax, penalty and interest which
37 the prime contractor would have been required to pay under article 1 of this
38 chapter if the prime contractor had not complied with paragraph 1 of this
39 subsection. Payment of the amount under this paragraph exempts the purchaser
40 from liability for any tax imposed under article 4 of this chapter. The
41 amount shall be treated as a transaction privilege tax to the purchaser and
42 as tax revenues collected from the prime contractor in order to designate the
43 distribution base for purposes of section 42-5029.

1 D. Subcontractors or others who perform services in respect to any
2 improvement, building, highway, road, railroad, excavation, manufactured
3 building or other structure, project, development or improvement are not
4 subject to tax if they can demonstrate that the job was within the control of
5 a prime contractor or contractors or a dealership of manufactured buildings
6 and that the prime contractor or dealership is liable for the tax on the
7 gross income, gross proceeds of sales or gross receipts attributable to the
8 job and from which the subcontractors or others were paid.

9 E. Amounts received by a contractor for a project are excluded from
10 the contractor's gross proceeds of sales or gross income derived from the
11 business if the person who hired the contractor executes and provides a
12 certificate to the contractor stating that the person providing the
13 certificate is a prime contractor and is liable for the tax under article 1
14 of this chapter. The department shall prescribe the form of the certificate.
15 If the contractor has reason to believe that the information contained on the
16 certificate is erroneous or incomplete, the department may disregard the
17 certificate. If the person who provides the certificate is not liable for
18 the tax as a prime contractor, that person is nevertheless deemed to be the
19 prime contractor in lieu of the contractor and is subject to the tax under
20 this section on the gross receipts or gross proceeds received by the
21 contractor.

22 F. Every person engaging or continuing in this state in the business
23 of prime contracting or dealership of manufactured buildings shall present to
24 the purchaser of such prime contracting or manufactured building a written
25 receipt of the gross income or gross proceeds of sales from such activity and
26 shall separately state the taxes to be paid pursuant to this section.

27 G. For the purposes of section 42-5032.01, the department shall
28 separately account for revenues collected under the prime contracting
29 classification from any prime contractor engaged in the preparation or
30 construction of a multipurpose facility, and related infrastructure, that is
31 owned, operated or leased by the tourism and sports authority pursuant to
32 title 5, chapter 8.

33 H. The gross proceeds of sales or gross income derived from a contract
34 for lawn maintenance services are not subject to tax under this section if
35 the contract does not include landscaping activities. Lawn maintenance
36 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
37 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
38 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
39 lawn de-thatching, seeding winter lawns, leaf and debris collection and
40 removal, tree or shrub pruning or clipping, garden and gravel raking and
41 applying pesticides, as defined in section 3-361, and fertilizer materials,
42 as defined in section 3-262.

43 I. The gross proceeds of sales or gross income derived from
44 landscaping activities are subject to tax under this section. Landscaping
45 includes installing lawns, grading or leveling ground, installing gravel or

1 boulders, planting trees and other plants, felling trees, removing or
2 mulching tree stumps, removing other imbedded plants, building or modifying
3 irrigation berms, repairing sprinkler or watering systems, installing
4 railroad ties and installing underground sprinkler or watering systems.

5 J. The portion of gross proceeds of sales or gross income attributable
6 to the actual direct costs of providing architectural or engineering services
7 that are incorporated in a contract is not subject to tax under this
8 section. For the purposes of this subsection, "direct costs" means the
9 portion of the actual costs that are directly expended in providing
10 architectural or engineering services.

11 K. For the purposes of this section:

12 1. "Contracting" means engaging in business as a contractor.

13 2. "Contractor" is synonymous with the term "builder" and means any
14 person, firm, partnership, corporation, association or other organization, or
15 a combination of any of them, that undertakes to or offers to undertake to,
16 or purports to have the capacity to undertake to, or submits a bid to, or
17 does personally or by or through others, construct, alter, repair, add to,
18 subtract from, improve, move, wreck or demolish any building, highway, road,
19 railroad, excavation, manufactured building or other structure, project,
20 development or improvement, or to do any part of such a project, including
21 the erection of scaffolding or other structure or works in connection with
22 such a project, and includes subcontractors and specialty contractors. For
23 all purposes of taxation or deduction, this definition shall govern without
24 regard to whether or not such contractor is acting in fulfillment of a
25 contract.

26 3. "Dealership of manufactured buildings" means a dealer who either:

27 (a) Is licensed pursuant to title 41, chapter 16 and who sells at
28 retail manufactured buildings.

29 (b) Supervises, performs or coordinates the excavation and completion
30 of site improvements, setup or moving of a manufactured building including
31 the contracting, if any, with any subcontractor or specialty contractor for
32 the completion of the contract.

33 4. "Manufactured building" means a manufactured home, mobile home or
34 factory-built building, as defined in section 41-2142.

35 5. "Prime contracting" means engaging in business as a prime
36 contractor.

37 6. "Prime contractor" means a contractor who supervises, performs or
38 coordinates the construction, alteration, repair, addition, subtraction,
39 improvement, movement, wreckage or demolition of any building, highway, road,
40 railroad, excavation, manufactured building or other structure, project,
41 development or improvement including the contracting, if any, with any
42 subcontractors or specialty contractors and who is responsible for the
43 completion of the contract.

44 7. "Sale of a used manufactured building" does not include a lease of
45 a used manufactured building.

1 Sec. 4. Section 42-11054, Arizona Revised Statutes, is amended to
2 read:

3 42-11054. Standard appraisal methods and techniques

4 A. The department shall:

5 1. Prescribe guidelines for applying standard appraisal methods and
6 techniques that shall be used by the department and county assessors in
7 determining the valuation of property.

8 2. Prepare and maintain manuals and other necessary guidelines,
9 consistent with this section, reflecting the standard methods and techniques
10 to perpetuate a current inventory of taxable property and the valuation of
11 that property.

12 B. In applying prescribed standard appraisal methods and
13 techniques: —

14 1. Current usage shall be included in the formula for reaching a
15 determination of full cash value.

16 2. SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 44-1761, AND ANY OTHER
17 DEVICE OR SYSTEM DESIGNED FOR THE PRODUCTION OF SOLAR ENERGY FOR ON-SITE
18 CONSUMPTION ARE CONSIDERED TO ADD NO VALUE TO THE PROPERTY.

19 C. If the methods and techniques prescribe using market data as an
20 indication of market value, the price paid for future anticipated property
21 value increments shall be excluded.

22 ~~G.~~ D. For purposes of determining full cash value the department and
23 county assessors shall use and apply the ratio standard guidelines issued by
24 the department for tax year 1993 in the same manner as they were applied in
25 tax year 1993. This subsection does not apply to property that is valued
26 according to prescribed statutory methods or to property for which values are
27 determined in the year after an appeal pursuant to section 42-16002.

28 Sec. 5. Section 43-222, Arizona Revised Statutes, as amended by Laws
29 2005, chapter 12, section 1, chapter 264, section 1, chapter 316, section 2
30 and chapter 317, section 10, is amended to read:

31 43-222. Income tax credit review schedule

32 Each year the joint legislative income tax credit review committee
33 shall review the following income tax credits:

34 1. In 2005, sections 43-1087, 43-1088 and 43-1175.

35 2. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
36 43-1090, 43-1176 and 43-1181.

37 3. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
38 43-1166, 43-1167 and 43-1169.

39 4. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
40 43-1178.

41 5. In 2009, sections 43-1076, 43-1081.01, ~~43-1083~~, 43-1084, 43-1162
42 and 43-1170.01.

43 6. In 2010, sections 43-1075, and ~~43-1163~~.

44 ~~7. In 2010, sections 43-1079.01, and 43-1090.01, 43-1163, 43-1167.01~~
45 AND 43-1182.

1 8- 7. In 2011, ~~section~~ SECTIONS 43-1074.02, 43-1083, 43-1085 AND
2 43-1164.

3 Sec. 6. Repeal

4 Section 43-222, Arizona Revised Statutes, as amended by Laws 2005,
5 chapter 292, section 1, is repealed.

6 Sec. 7. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
7 amended by adding section 43-1085, to read:

8 43-1085. Credit for solar energy devices; commercial and
9 industrial applications

10 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2005
11 THROUGH DECEMBER 31, 2012, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
12 THIS TITLE FOR INSTALLING ONE OR MORE SOLAR ENERGY DEVICES, AS DEFINED IN
13 SECTION 42-5001 AND CERTIFIED PURSUANT TO SECTION 41-1501.10, DURING THE
14 TAXABLE YEAR FOR COMMERCIAL OR INDUSTRIAL PURPOSES IN THE TAXPAYER'S TRADE OR
15 BUSINESS LOCATED IN THIS STATE OR FINANCED BY A THIRD-PARTY ORGANIZATION.

16 B. THE AMOUNT OF THE CREDIT IS EQUAL TO TEN PER CENT OF THE INSTALLED
17 COST OF THE DEVICE.

18 C. THE PERSON WHO PROVIDES OR INSTALLS THE DEVICE SHALL FURNISH THE
19 TAXPAYER WITH AN ACCOUNTING OF THE COST TO THE TAXPAYER.

20 D. THE TAXPAYER MAY NOT CUMULATE TOTAL TAX CREDITS UNDER THIS SECTION
21 EXCEEDING TWENTY-FIVE THOUSAND DOLLARS WITH RESPECT TO THE SAME BUILDING IN
22 THE SAME YEAR OR FIFTY THOUSAND DOLLARS IN TOTAL CREDITS IN ANY YEAR.

23 E. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
24 TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
25 TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY
26 BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A
27 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

28 F. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
29 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL
30 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
31 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST OR FINANCIAL INVESTMENT IN
32 THE SYSTEM. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED
33 THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

34 Sec. 8. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
35 amended by adding section 43-1164, to read:

36 43-1164. Credit for solar energy devices; commercial and
37 industrial applications

38 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2005
39 THROUGH DECEMBER 31, 2012, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
40 THIS TITLE FOR INSTALLING ONE OR MORE SOLAR ENERGY DEVICES, AS DEFINED IN
41 SECTION 42-5001 AND CERTIFIED PURSUANT TO SECTION 41-1501.10, DURING THE
42 TAXABLE YEAR FOR COMMERCIAL OR INDUSTRIAL PURPOSES IN THE TAXPAYER'S TRADE OR
43 BUSINESS LOCATED IN THIS STATE OR FINANCED BY A THIRD-PARTY ORGANIZATION.

44 B. THE AMOUNT OF THE CREDIT IS EQUAL TO TEN PER CENT OF THE INSTALLED
45 COST OF THE DEVICE.

1 C. THE PERSON WHO PROVIDES OR INSTALLS THE DEVICE SHALL FURNISH THE
2 TAXPAYER WITH AN ACCOUNTING OF THE COST TO THE TAXPAYER.

3 D. THE TAXPAYER MAY NOT CUMULATE TOTAL TAX CREDITS UNDER THIS SECTION
4 EXCEEDING TWENTY-FIVE THOUSAND DOLLARS WITH RESPECT TO THE SAME BUILDING IN
5 THE SAME YEAR OR FIFTY THOUSAND DOLLARS IN TOTAL CREDITS IN ANY YEAR.

6 E. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
7 TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
8 TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY
9 BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A
10 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

11 F. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
12 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
13 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST OR FINANCIAL INVESTMENT IN
14 THE SYSTEM. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED
15 THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

16 Sec. 9. Purpose

17 Pursuant to section 43-223, paragraph 2, Arizona Revised Statutes, the
18 objective of the income tax credits enacted in sections 43-1085 and 43-1164,
19 Arizona Revised Statutes, is to stimulate the production and use of solar
20 energy in commercial and industrial applications in this state by subsidizing
21 the initial cost of solar energy equipment purchased and installed for those
22 purposes.

23 Sec. 10. Retroactivity

24 Section 43-1083, Arizona Revised Statutes, as amended by this act, and
25 sections 43-1085 and 43-1164, Arizona Revised Statutes, as added by this act,
26 apply retroactively to taxable years beginning from and after December 31,
27 2005.

APPROVED BY THE GOVERNOR JUNE 21, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2006.